



12 FEB 2007

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In re Application of
VOLPE

Application No.: 10/551,043
PCT No.: PCT/US04/09429
Int. Filing Date: 29 March 2004
Priority Date: 27 March 2003
Atty Docket No.: W7116.0060
For: A PACKAGING DEVICE

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Petition to Correct Inventorship under 37 CFR 1.48(a)", treated as a petition to correct inventorship under 37 CFR 1.497(d), and filed on 04 December 2006 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to delete Judi A. Alexander as inventor in the above referenced application.

BACKGROUND

On 27 September 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 5 June 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) because the declaration was not executed in accordance with 37 CFR 1.66 or 1.68.

On 5 October 2006, applicant responded to the Form PCT/DO/EO/905 with a declaration identifying only one inventor. On 3 November 2006, a Notification of Defective Response was mailed to applicant indicating that the current declaration was not executed in accord with 37 CFR 1.66 or 1.68 and was missing information on joint inventor Judi A. Alexander.

On 4 December 2006, applicant filed the instant petition to correct inventorship. Applicant paid the \$130 petition fee. Petitioner provided the statement of Judi A. Alexander, the inventor identified in the international application, in support of the correction of inventorship under 37 CFR 1.497(d).

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any

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of the original named inventors, the written consent of the assignee(s).¹

Petitioner provided the statement, signed by Judi A. Alexander stating that any error in inventorship in the above identified application occurred without deceptive intent on her part. This statement satisfies item (1) of 37 CFR 1.497(d).

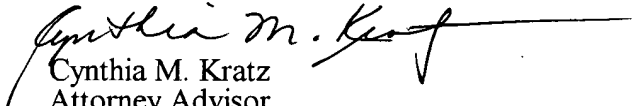
The processing fee of \$130.00 was paid and thus, Item (2) above is satisfied.

With regard to Item (3), the written consent of the assignee consenting to the deletion of Judi A. Alexander as inventor in this application is required. A statement under 37 CFR 3.73(b)² was submitted. Therefore, Item (3) above is satisfied. Accordingly, applicant has met all of the requirements to delete Judi A. Alexander as co-inventor in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to delete Judi A. Alexander as inventor is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (2) and (4) date is **04 December 2006**.


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¹37 CFR 1.497(d) states, in part: If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.